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EXAMINER	
MYERS, GLENN F	
ART UNIT	PAPER NUMBER
3652	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/583,749	HANSL ET AL.	
	Examiner	Art Unit	
	GLENN MYERS	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *42-57 and 59-70* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *42-57 and 59-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 June 2010* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/18/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 6/18/2010 is being considered by the examiner.

Claim Rejections - 35 USC § 112

1. Claims 42 and 66-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 42 recites the limitation "comprising a substantially flat I-beam". Since an I-beam is shaped like an "I" it is not clear whether the beam is substantially flat or shaped like an "I".

3. Claim 66 recites the limitation "about a pivot axis" in Line 5 of the claim. It is not clear whether the "pivot axis" is the same "pivot axis" recited in Claim 65 or not. For examination purposes the "pivot axis" is being interpreted as not necessarily the same "pivot axis" recited in Claim 65.

4. The remaining claims are rejected because of dependency on rejected claims.

Claim Rejections - 35 USC § 102

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 42, 49-51, 54-56, and 59-62 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston et al 3,556,329.

2. In Re Claim 42, as best understood, Johnston discloses a load - bearing device for a shelf - stacking device, with a telescopic table (Fig. 3, Load Carrying Unit 35)

displaceable in a plane parallel with a support surface (Fig. 4, Top Surface of Platform 76) for accommodating at least one storage aid (Fig. 3, 14), with a bottom table (Fig. 4, Rails 36, Spaced apart Channels 37) and with an intermediate table (Fig. 4, Lower Platform 39) comprising a substantially flat I - beam and a top table (Fig. 4, Platform 76) displaceable relative thereto and relative to one another in first, second, third, and fourth linear guide systems (Fig. 4, Guide Rollers 38, Guide Rail 36, guide slots 68, 69, Guide Roller 75 and corresponding guide slot shown in Fig. 4) disposed symmetrically by reference to a mid - plane and with a drive system (Fig. 1, Motor 43, Drive Shaft 44) between the bottom table and intermediate table and a transmission system (Fig. 6, Sprocket Wheel 91, Chain 84) for displacing the top table depending on the relative movement between the bottom table and the intermediate table, and with the first and second linear guide systems (Fig. 4, Rollers 38, slot 68, and slot 69) between the intermediate table and the bottom table and the third and fourth linear guide systems (Fig. 4, Slot 73, Slot 74 and Rollers 75) between the intermediate table and the top table disposed in parallel first and second guide planes (Fig. 4, plane touching top points of rollers 75, and plane touching the bottom points of rollers 75) spaced apart from one another and extending parallel with a bearing surface of the top table, and with at least one other guide system (Fig. 8, rollers 97, and corresponding portion of the platform 76 and recessed portion of lower platform 39) which forms a third guide plane oriented perpendicular thereto and parallel with a displacement direction of the top table, and the transmission system comprises a transmission mechanism (Fig. 6, Sprocket Wheel 91, Chain 84) and is disposed in a transmission plane extending at an angle with respect to

a top face (Fig. 4, Top Surface of Platform 76) of the top table and parallel with the displacement direction, wherein strip-shaped guide projections (Fig. 4, Guide Roller 75, Guide Rollers 38) forming the parallel first and second guide planes extending across an entire length of the intermediate table form a form a top flange (Fig. 4, 75) incorporating the third and fourth linear guide systems between the intermediate table and the top table and a bottom flange (Fig. 4, 38) incorporating the first and second linear guide systems between the intermediate table and the bottom table.

3. In Re Claim 49, Johnston discloses first, second, third and fourth linear guide systems and the at least one other guide system are provided in the form of roller guides (Fig. 4, 38, 75), (Fig. 8, 97).

4. In Re Claim 50, Johnston discloses first, second, third, and fourth linear guide systems and the at least one other guide system are provided in the form of anti-friction bearing guides (Fig. 4, 38, 75), (Fig. 8, 97).

5. In Re Claim 51, Johnston discloses first, second, third, and fourth linear guide systems and the at least one other guide system are provided with friction-reducing and wear resistant guide elements forming strip-shaped guide projections between groove shaped recesses (Fig. 4, 38, 75), (Fig. 8, 97).

6. In Re Claim 54, Johnston discloses u-shaped antifriction sections secured to the strip – shaped guide projections by a positive and/or frictional clamping action. (Fig. 4, Positive clamping action between guide slots and guide rollers secures the guide rollers to the guide slots.)

7. In Re Claim 55, Johnston discloses that the guide elements on the strip shaped guide projections are disposed in the longitudinal direction extending on the intermediate table and/or top table and/or bottom table running across an entire length and co-operate with groove-shaped recesses on the bottom table and/or intermediate table and/or top table. (Fig. 4, Guide Rollers 38 and 75 extend in the longitudinal direction)

8. In Re Claim 56, Johnston discloses that the strip-shaped guide projections forming the parallel first and second guide planes are disposed on the intermediate table symmetrically by reference to a mid-plane.

9. In Re Claim 59, Johnston discloses that groove-shaped recesses (Fig. 4, 81) are provided in the top face and a bottom face of the intermediate table extending in the direction of longitudinal extension to form the at least one other guide system providing lateral guidance in the third guide plane, which extends perpendicular to the parallel first and second guide planes and parallel with the displacement direction.

10. In Re Claim 60, Johnston discloses that the groove-shaped recesses co-operate with strip shaped guide projections (Fig. 5, 84), (Fig. 4, 83) disposed on the top table and bottom table.

11. In Re Claim 61, Johnston discloses that the strip-shaped guide projections are provided with the guide elements. (Fig. 4, 38, 75), (Fig. 8, 97)

12. In Re Claim 62, Johnston discloses that U-shaped complementary sections (Fig. 4, Channel in Platform 76 enclosing Guide Roller 75) are disposed in a positive or frictional connection in the groove-shaped recesses (Fig. 4, Guide Slots 73 and 74)

enclosing the guide elements (Fig. 4, Guide Rollers 75), which are made from coated metal or plastic with good anti-friction properties or coated plastic.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. Claims 43-48, 52-53, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston et al.

15. In Re Claims 43-48, as best understood, Johnston et al discloses the claimed invention except for the bottom table and/or the intermediate table and/or top table being made from fiber and/or fabric reinforced plastic, light metal alloys, carbon fiber reinforced plastic, Kevlar fiber reinforced composites, plastic or reinforcing elements of lightweight metal, steel etc. in the composite material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bottom table and/or the intermediate table and/or top table from fiber and/or fabric reinforced plastic, light metal alloys, carbon fiber reinforced plastic, Kevlar fiber reinforced composites, plastic or reinforcing elements of lightweight metal, steel etc. in the composite material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin,* 125 USPQ 416.

Please note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

16. In Re Claim 52, as best understood, Johnston et al discloses each guide element comprising a U-shaped anti-friction section (Fig. 4, Channel corresponding with Guide Roller 75 and Guide Slots 68 and 69) and the remainder of the claimed invention except for the U-Shaped anti-friction section made from a plastic with good anti-friction properties. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the U-shaped anti-friction section from a plastic with good anti-friction properties, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Please note that in the instant application applicant has not disclosed any criticality for the claimed limitations.

17. In Re Claim 53, as best understood, Johnston et al discloses the claimed invention except for a friction-reducing, wear-resistant coating, made from plastic with good anti-friction properties, provided on an external surface of the guide elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a friction-reducing, wear-resistant coating, in particular made from plastic with good anti-friction properties, on an external surface of the guide elements, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of

obvious design choice. *In re Leshin,* 125 USPQ 416. Please note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

18. In Re Claim 63, Johnston et al discloses the claimed invention except for an angle between the transmission plane and the top face of the top table between 10° and 60°.

19. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make an angle between the transmission plane and the top face of the top table between 10° and 60°, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller,* 105 USPQ 233. Please note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

20. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston et al and in view of Taylor et al 3,214,934.

21. In Re Claim 57, Johnston teaches the load-bearing device according to Claim 42 as discussed above.

22. Johnston does not teach a flange width of the top flange bigger than a flange width of the bottom flange.

23. However, Taylor teaches a load-bearing device (Fig. 3, Material Handling Device) wherein a flange width (Fig. 3, Width between end of flanges at the top of 50) of the top flange (Fig. 3, Top Portion of 50) is bigger than a flange width (Fig. 3, Width

between end of flanges at the bottom of 50) of the bottom flange (Fig. 3, Flange at the bottom of 50).

24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a load-bearing device wherein a flange width of the top flange is bigger that a flange width of the bottom flange in the load bearing device of Johnston as taught by Taylor in order to support a load.

25. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston et al and in view of Wentz et al 3,954,185.

26. In Re Claim 63, Johnston teaches the apparatus of Claim 42 as discussed above.

27. Johnston does not teach an angle between the transmission plane and the top face of the top table between 10 degrees and 60 degrees.

28. However, Wentz teaches an angle between the transmission plane (Fig. 9, Plane of sprocket 411) and the top face (Fig. 9, 20) of the top table between 10 degrees and 60 degrees.

29. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an angle between the transmission plane and the top face of the top table is between 10 and 60 degrees in the load bearing device of Johnston as taught by Wentz in order to move a load.

30. Claims 64-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston et al and in view of Nakatsukasa et al 6,523,676.

31. In Re Claims 64-70 Johnston teaches the load-bearing device according to Claim 42 as discussed above.

32. Johnston does teach first and second locking mechanisms disposed at opposite end regions of the top table on first and second side walls respectively, each locking mechanism having a respective locking device which can be displaced relative to the top face of the top table between a position more or less flush with it and a position projecting beyond it.

33. However, Nakatsukasa et al teaches first and second locking mechanisms (Fig. 6, 93, 94, and 95) disposed at opposite end regions of the top table (Fig. 6, 91) on first and second side walls respectively, each locking mechanism having a respective locking device (Fig. 6, 93, 94, 95) which can be displaced relative to the top face of the top table between a position more or less flush with it (Fig. 6, dashed line 93 and 94) and a position projecting beyond it (Fig. 6, solid line 93 and 94); and

each locking device is provided in the form of a double lever element (Fig. 6, 93, 94, 95) with a hook-shaped lock projection (Fig. 6, 93b and 94b) on the respective side wall of the top table mounted so as to be pivotable about a pivot axis (Fig. 6, 93a and 94a); and

each locking device is displaceably connected to a single lever element (Fig. 6, 95) in a slide block system on the respective side wall which is pivotable about a pivot axis; and

the single lever element is pivoted on an operating region projecting above the top face of the top table via a load force, which causes the double lever element to pivot

into a position in which the lock projection projects above the top face of the top table; (Fig. 6) and

the single lever element is positioned in a non-operating position via a spring system comprising a leaf spring (Fig. 6, the single lever element 95 is a leaf spring), in which the operating region projects above the top face of the top table positioned against a stop device (Fig. 6, 91); and

each locking means device is designed to be displaceable between the a non-operating position (Fig. 6, dashed line 94) and an operating position (Fig. 6, Solid 94) in which it projects above the top face of the top table; (Fig. 6) and

a hook height (Fig. 4, Portion of 93 above 91) of a respective catch pawl (Fig. 6, 93b and 94b) forming each locking device bigger than or the same as a vertical distance (Fig. 4, Vertical distance from top of 91 to Top of 7) between support surfaces of a conveyor and the bearing surface on the top table.

34. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use first and second locking mechanisms in the load bearing device of Johnston as taught by Nakatsukasa in order to manipulate a load.

Response to Arguments

35. Applicant's arguments filed 6/18/2010 have been fully considered but they are not persuasive.

36. Applicant's arguments regarding the 102 rejection of Claim 42 from pages 21 through line 4 of Page 24 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically

pointing out how the language of the claims patentably distinguishes them from the references.

37. Regarding Applicant's argument that "Johnston discloses that its stacker section 39, which the Examiner has found to be an intermediate table according to Applicants' Claim 42, has substantial interruptions along each of the top face of the stacker section and the bottom face of the stacker section". In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., substantial interruptions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

38. Applicant's arguments with respect to claim 57 have been considered but are moot in view of the new ground(s) of rejection.

39. In response to Applicant's argument regarding Claim 63 that "Johnston fails to disclose even the general conditions of providing a transmission plane at an angle to the top face of the top table so that the telescopic table does not need a maximum height", Johnson discloses an angle of 90 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make an angle between the transmission plane and the top face of the top table between 10° and 60°, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller,* 105 USPQ 233. Please

note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

Conclusion

40. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nguyen et al 6,390,286 discloses a conveyor. Bianca 5,437,536 discloses a vehicle parking apparatus. Hammond 5,482,422 discloses a storage rack. Yamaguchi 5,871,083 discloses a conveyor apparatus. Sullivan 6,158,943 discloses a pushback storage system. Fur 4,248,563 discloses storage and retrieval system. Nagata et al 5,343,279 discloses a shift preventing mechanism.

41. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLENN MYERS whose telephone number is (571)270-1160. The examiner can normally be reached on Monday - Friday/7:30AM-5:00PM - 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./
Examiner, Art Unit 3652

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art Unit 3652